

NOTICE OF AMENDMENTS TO LOCAL BANKRUPTCY RULES
U.S. BANKRUPTCY COURT, DISTRICT OF ALASKA.

Comments are sought on proposed amendments to the Local Bankruptcy Rules.

All Comments received become part of the permanent files on the rules.

Written comments are due not later than June 30, 2010

Address all communications on rules to:

United States District Court, District of Alaska
Attention: Court Rules Attorney
222 West Seventh Avenue, Stop 4
Anchorage, Alaska 99513-7564

or

e-mail to AKD-Rules@akd.uscourts.gov

COMMENTS:

Rule 3002-1 "Claims" – Subdivision (f) amended to eliminate the requirement that a paper copy of a proof of claim be served on debtor's counsel and the trustee. Service of a paper copy only need be made on an unrepresented debtor.

Rule 5005-4 "Electronic Case Filing" – Clause (b)(1)[A](I) and subparagraph (b)(1)[C] amended to make ECF registration and filing applicable to *all* attorneys appearing in the case.

RED-LINED

Rule 3002-1 Claims

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(f) Service of Proofs of Claim on ~~Debtors/Trustees~~ Debtors.

____ (1) In all cases in which the debtor is appearing without counsel, a creditor filing a proof of claim must serve a legible, complete paper copy of the claim, including a copy of all supporting documentation, by first class mail on the ~~debtor's attorney, or the debtor if appearing without counsel, and the trustee, if appointed.~~

____ (2) ~~If the claim is a claim for wages, salary or other compensation, the creditor must include the creditor's full social security number on the copy served on the trustee, if one has been appointed.~~

____ (3) ~~Notwithstanding the provisions of AK LBR 5005-4(e)(2), if a proof of claim is filed electronically, the creditor filing the claim must serve a paper copy of its claim, by first class mail, on the persons listed in paragraph (f)(1)~~ debtor.

Rule 5005-4 Electronic Case Filing

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(b) Registration.

(1) Password.

[A] (i) Each attorney admitted to practice under AK LBR 2090-1(a) or appearing under AK LBR 2090-1(b) ~~(2)~~, who files pleadings, documents, or papers in the court, must obtain a CM/ECF System password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

(ii) Exceptions to the requirements of subparagraph (1)[A](i) will be granted only upon motion for good cause shown.

(iii) Attorneys in outlying areas of the state that do not have access to high speed (256 kbs, or higher) internet access may be exempted from the requirements of subparagraph (1)[A](i) until such time as high speed (256 kbs, or higher) internet access becomes available in the area in which the attorney practices. Any request for exception under this provision must be accompanied by an affidavit showing the availability and cost of internet access in the area.

[B] Every trustee appointed in cases before this court must obtain a CM/ECF System password to permit the trustee to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

[C] ~~Attorneys admitted to practice under AK LBR 2090-1(b)(1) and any~~ Any individual who is a creditor or interested party, or the duly authorized officer or agent of a creditor or interested party that is not an individual, may be entitled to one CM/ECF System password to permit the individual to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

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Rule 3002-1 Claims

(a) **Place of Conventional Filing.** Proofs of claim or interest filed conventionally must be filed with the Clerk of the Bankruptcy Court, Room 138, 605 West Fourth Avenue, Anchorage, Alaska 99501-2296 or at the Office of the Deputy Clerk of the United States District Court, 101 12th Avenue, Room 370, Box 1, Fairbanks, Alaska 99701.

(b) **Copies to be Filed.** *[Abrogated]*

(c) **Conformed Copies of Filed Claims.** *[Abrogated. See Official Form 10]*

(d) **Claims Arising from Rejection of Executory Contracts.**

(1) Claims arising from the rejection of executory contracts must be filed on or before the last date for filing proof of claims or thirty (30) days after entry of the order authorizing rejection, whichever date is later.

(2) Notice of the 30-day bar date must be provided by the debtor or the trustee, as appropriate, within seven (7) days of the order rejecting the executory contract.

(e) **Claims in Chapter 7 Cases That Supersede Chapter 11 and Chapter 13 Cases.**

[Abrogated. See Rule 1019, Federal Rules of Bankruptcy Procedure.]

(f) **Service of Proofs of Claim on Debtors.** In all cases in which the debtor is appearing without counsel, a creditor filing a proof of claim must serve a legible, complete paper copy of the claim, including a copy of all supporting documentation, by first class mail on the debtor.

(g) **Section 506(b) Claims in Chapter 13 Cases.**

(1) A secured creditor having a claim for post-petition fees, costs or charges under § 506(b) of the Code, which claim is to be paid by the trustee under the terms of the plan, must, not later than thirty (30) days after entry of the order confirming the plan:

[A] file with the court an application for allowance of the claim, setting forth the amount of the post-petition fees, costs and charges claimed to be due; and

[B] transmit the application to the United States trustee; and

[C] serve it on—

(i) the debtor,

(ii) trustee,

(iii) the five (5) largest unsecured creditors, and

(iv) any creditor having or claiming to have an interest in the property securing the claim.

(2) A party objecting to the application for allowance of post-petition fees, costs and charges may serve and file an objection within fourteen (14) days after service of the application.

(3) If no objection is filed as specified in paragraph (g) (2), the application for allowance of post-petition fees, costs or charges will be deemed approved or allowed without further order of the court.

Related Provisions:

11 U.S.C. § 501	Filing Proofs of Claim
11 U.S.C. § 502	Allowance of Claims
11 U.S.C. § 506	Determination of Secured Status

11 U.S.C. § 507	Priorities
11 U.S.C. § 509	Claims of Co-debtors
FRBP 1019(2), (3)	Conversion, New Filing Periods, Claims Filed in Superseded Cases
FRBP 3001	Proof of Claim, General Requirements
FRBP 3002	Filing Proof of Claim or Interest
FRBP 3003	Filing Proof of Claim or Equity Security Interest in Chapter 9 Municipality or Chapter 11 Reorganization Cases
FRBP 3004	Filing of Claims by Debtor or Trustee
FRBP 3005	Filing of Claim by Co-debtor
FRBP 3006	Withdrawal of Claims
FRBP 3007	Objections to Claims
FRBP 3008	Reconsideration of Claims
FRBP 5005	Filing and Transmittal of Papers
AK LBR 1009-1	Amendment of Schedules and Matrix
AK LBR 3003-1	Filing Proofs of Claim in Chapter 9 and 11 Cases
AK LBR 3004-1	Filing Proofs of Claim by Debtor or Trustee
AK LBR 5001-2	Clerk's Office Location and Hours
AK LBR 5005-4	Electronic Filing
Official Bankruptcy Form 10 —	Proof of Claim General Form
AK LBF 13	Notice of Objection to Claim and Notice of Hearing Thereon

COMMENT: Subdivision (f) amended to eliminate the requirement that a paper copy of a proof of claim be served on debtor's counsel and the trustee. Service of a paper copy only need be made on an unrepresented debtor.

Rule 5005-4 Electronic Case Filing

(a) Procedures.

(1) The filing of documents in electronic format will be in accordance with this rule and the electronic filing procedures promulgated by the Clerk of the Court.

(2) Participants in the Case Management/Electronic Case Filing ("CM/ECF") System are responsible for ensuring that current filing procedures are followed.

(b) Registration.

(1) Password.

[A] (i) Each attorney admitted to practice under AK LBR 2090-1(a) or appearing under AK LBR 2090-1(b), who files pleadings, documents, or papers in the court, must obtain a CM/ECF System password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

(ii) Exceptions to the requirements of subparagraph (1)[A](i) will be granted only upon motion for good cause shown.

(iii) Attorneys in outlying areas of the state that do not have access to high speed (256 kbs, or higher) internet access may be exempted from the requirements of subparagraph (1)[A](i) until such time as high speed (256 kbs, or higher) internet access becomes available in the area in which the attorney practices. Any request for exception under this provision must be accompanied by an affidavit showing the availability and cost of internet access in the area.

[B] Every trustee appointed in cases before this court must obtain a CM/ECF System password to permit the trustee to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

[C] Any individual who is a creditor or interested party, or the duly authorized officer or agent of a creditor or interested party that is not an individual, may be entitled to one CM/ECF System password to permit the individual to participate in the electronic retrieval

and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

[D] (i) An individual may become registered to participate in the CM/ECF System upon completion of training and submission of a Certification for CM/ECF form to the court.

(ii) An individual who is the representative of a creditor or interested party that is not an individual must submit satisfactory evidence that the individual is duly authorized to act for and on behalf of the represented party.

(2) *Consent to Electronic Notice and Service.* Participation in the CM/ECF System by receipt of a password from the court, constitutes:

[A] a request for service of notice electronically under Rule 9036, Federal Rules of Bankruptcy Procedure; and

[B] consent to receive notice and service by electronic means in each case in which a formal entry of appearance as a party or attorney for a party has been made.

(3) *Unauthorized Use of Passwords.*

[A] No registered participant may knowingly permit or cause to permit the participant's password to be utilized by anyone other than an authorized employee of the participant or the participant's firm.

[B] No person may knowingly utilize or cause another person to utilize the password of a registered participant unless the person is an authorized employee of the participant or the participant's firm.

(4) *Compromised Password.*

[A] Each registered participant in the CM/ECF System is responsible for maintaining the integrity of the participant's password.

[B] In the event a registered participant has reason to believe that the password issued to the participant has been compromised or otherwise may be subject to use by an unauthorized person, the participant must immediately:

(i) cancel the existing password and issue a new password; and

(ii) notify the Clerk of the Court in writing of the change.

(5) *Withdrawal.*

[A] (i) A registered participant may withdraw from participation in the CM/ECF System by providing the Clerk of Court with written notice of withdrawal.

(ii) A registered participant who is the representative of a creditor or interested party that is not an individual must, immediately upon termination of the individual's authority to act for or on behalf of the represented party, withdraw from participation and notify the Clerk of the Court with written notice of the withdrawal.

[B] Upon receipt of a written notice of withdrawal, the Office of the Clerk will immediately cancel the participant's password and delete the participant from any applicable electronic service list.

(c) Signatures.

(1) *Registered Participant.* The electronic filing of a petition, pleading, motion or other paper by a registered participant in the CM/ECF System constitutes the signature of that participant under Rule 9011, Federal Rules of Bankruptcy Procedure.

(2) *Debtors.*

[A] For all petitions, lists, schedules and statements requiring the signature of the debtor(s) that are filed electronically, a Declaration Re: Electronic Filing, AK LBF 37A or 37B, as applicable, must be prepared by the participant, bearing the original signatures of the debtor(s) and the attorney for debtor(s).

[B] The declaration constitutes the debtor(s) original signatures for filing purposes.

[C] The original declaration must be:

(i) signed before the petition is filed; and

(ii) filed conventionally with the Bankruptcy Court within fourteen (14) days of the date the petition is electronically filed.

(3) *Verified Documents.*

[A] Verified documents (affidavits or declarations under penalty of perjury as provided in 28 U.S.C. § 1746) are to be filed electronically.

[B] Except for documents covered by paragraphs (c)(1) and (c)(2), the signature page of the verified document filed electronically must be an imaged (scanned) document bearing a digital copy of the original signature.

(4) *Other Documents*. For documents not otherwise governed by this subsection, unless the pleading or paper being electronically filed is an imaged (scanned) document bearing a digital copy of the original signature, it must indicate that it has been signed by means of a signature designation: e.g., "/s/ Jane Doe."

(d) Electronic Filing.

(1) Mandatory Electronic Filing.

[A] Except as expressly otherwise provided in this Rule or in exceptional circumstances that prevent a participant from filing electronically, all petitions, motions, pleadings, memoranda of law, or other documents required to be filed with the court in connection with a case assigned to the CM/ECF System must be electronically filed by participants in the CM/ECF System.

[B] Parties and attorneys who are not participants in the CM/ECF System will continue to file all pleadings and papers conventionally.

(2) *Related Documents*. All documents must be filed separately, except that exhibits to a document must be filed as attachments to that document under the same docket number.

[A] Where documents related to a motion or other pleading are being filed concurrently with the motion or other pleading, e.g., a motion, memorandum of law and a supporting affidavit, the related documents must be filed separately and shown as being a document related to the motion or other pleading.

[B] If documents being submitted electronically have lengthy exhibits, the filing of relevant excerpts of the exhibits is preferred and permitted without prejudice to the right of any party to file additional excerpts or the complete exhibit with the court at any time.

(3) Emergency Motions.

[A] Emergency motions, supporting pleadings and objections are to be filed electronically as provided in this rule.

[B] The party filing the motion must promptly advise the judge's law clerk or secretary of the filing telephonically.

(4) *Proposed Orders, Findings and Judgments*. Unless otherwise ordered by the court, participants in the CM/ECF System must submit all proposed orders, findings of fact and conclusions of law and judgments electronically, in accordance with the CM/ECF Administrative Procedures Guide.

(5) *Calendar Requests*. Unless otherwise ordered by the court, participants in the CM/ECF System must submit all Bankruptcy Court Calendar Requests, AK LBF 7, electronically, in accordance with the CM/ECF Administrative Procedures Guide.

(e) Service.

(1) The filing party must serve the pleading or other paper being electronically filed upon all persons entitled to notice or service in accordance with otherwise applicable rules.

(2) Except as otherwise provided by these rules, if a person entitled to notice or service is a registered participant in the CM/ECF System in the case in which the pleading or other paper is being filed, service by electronic means of the Notice of Electronic Filing is deemed the equivalent of service of the pleading or other paper by first class mail, postage prepaid.

(3) Notwithstanding the foregoing, service of a summons and complaint in an adversary proceeding or an involuntary bankruptcy proceeding and a motion under Rule 9014 must continue to be made under Rule 7004, Federal Rules of Bankruptcy Procedure.

(f) Docketing.

(1) *Entry on Docket*. The electronic filing of a pleading or other paper in accordance with CM/ECF System Procedures constitutes entry of that pleading or other paper on the docket kept by the clerk under Rule 5003, Federal Rules of Bankruptcy Procedure.

(2) *Notice to Filing Party*. Whenever a pleading or other paper is filed electronically in accordance with CM/ECF System Procedures, the System will automatically generate a "Notice of Electronic Filing" by electronic means at the time of docketing.

(3) *Entry of Orders and Judgments.*

[A] The Office of the Clerk will enter all orders, decrees, judgments, and proceedings of the court in accordance with CM/ECF System Procedures, which constitutes entry of the order, decree, judgment, or proceeding on the docket kept by the clerk under Rule 9021, Federal Rules of Bankruptcy Procedure.

[B] On all orders submitted electronically, the Office of the Clerk will place the notation "**FILED ON**_____" on the first page of the order, and will insert the date that the order is entered on the docket. The date so inserted will be the equivalent of the conventional "date filed" stamp for all purposes.

(4) *Titles.* The person electronically filing a pleading or other document is responsible for designating a title for the document by using one of the categories contained in the CM/ECF System.

(g) **Special Filing Requirements.** Electronic or conventional filing of the following documents is governed by the provisions of this subsection:

(1) *Documents to be Filed under Seal.*

[A] A motion to file document(s) under seal must be filed electronically, and a proposed order authorizing filing under seal must be submitted to the court in accordance with this rule.

[B] After the entry of an order authorizing documents to be filed under seal, the documents to be filed under seal must also be filed electronically, in accordance with the CM/ECF Administrative Procedures Guide.

(2) *Exhibits to Pleadings.*

[A] Wherever possible, documents being filed as exhibits, including but not limited to leases, notes, and the like, should be electronically imaged (*i.e.*, "scanned") and filed as part of the document referring to the exhibit using Portable Document Format (pdf).

[B] Exhibits that are not available in electronic form are to be filed conventionally, attached to a copy of the Notice of Electronic Filing for the electronically filed document to which the exhibit(s) relate.

(3) *Proofs of Claim.* [Abrogated]

(4) *Summons to be Issued by the Clerk.* Summonses to be issued by the Clerk may be submitted electronically, in the same manner as specified in subsection (d)(4) for proposed orders, findings and judgments, or may be submitted conventionally.

(5) *Trial and Hearing Exhibits.*

[A] Exhibit lists, to the extent that the filing thereof is otherwise required by applicable rules of bankruptcy procedure, are to be filed electronically.

[B] The actual exhibits are to be submitted conventionally as provided by otherwise applicable rules of bankruptcy procedure.

(6) *Transcripts.*

[A] Whenever possible, transcripts, or the relevant portions thereof, should be electronically imaged (*i.e.*, "scanned") and filed as part of the document referring to the transcript using Portable Document Format (pdf).

[B] Transcripts that are not available in electronic form are to be filed conventionally, attached to a copy of the Notice of Electronic Filing for the electronically filed document to which the transcript(s) relate.

(7) *Report of Balloting.* [Abrogated]

(8) *Statement of Social Security Number.* The Statement of Social Security Number submitted in accordance with Rule 1007(f), Federal Rules of Bankruptcy Procedure, is to be submitted immediately after the electronic filing of a petition, in the same manner as specified in (d)(4) for proposed orders.

(9) *Service of Conventionally Filed Documents.* Pleadings or other documents filed conventionally under this subsection must be served in the manner provided for in, and on those parties entitled to notice in accordance with, the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules except as otherwise provided by order of the court.

(h) **Fees.**

(1) Any required fee may be paid by authorized credit card as provided in the CM/ECF Administrative Procedures Guide.

(2) Unless other arrangements are made with the Clerk of Court, any required fee for a document filed electronically not paid as provided in paragraph (1) must be mailed to the Clerk of the Court not later than the next business day or hand delivered to the Clerk of the Court not later than the second business day next immediately following the filing.

(i) **Copies and Certified Copies.** Conventional copies and certified copies of electronically filed documents may be obtained at the Office of the Clerk, 605 West Fourth Avenue, Room 138, Anchorage, Alaska 99501-2296. A fee for copying and certification will be charged and collected in accordance with 28 U.S.C. § 1930.

(j) **Technical Failures.**

(1) If a participant in the CM/ECF System is unable to transmit a time-critical document for electronic filing, due to technical failure of either the CM/ECF System or the participant's system, or due to internet congestion or internet service provider problems, the participant must promptly contact the Clerk of the Court and make arrangements for conventional filing of the document.

(2) Unless exceptional circumstances exist that prevent the document from being transmitted during regular business hours, as defined in AK LBR 5003-2(e), the participant must make every effort to transmit any time-critical document during regular business hours on the date the document is due.

(k) **Consequences for Noncompliance.**

(1) *Effect of Failure to Make Payment.*

[A] In the event of nonpayment of the fee for filing a petition, the petition may be dismissed by the court after a hearing on shortened time of not less than seven (7) days notice.

[B] In all other matters, if the required fee is not paid as provided in subsection (h), the motion or application for which the fee is required will be deemed withdrawn by the party making the motion or application and, except as may be otherwise ordered by the court for cause, no further proceedings on the motion or application will take place.

(i) Notice of the deemed withdrawal will be given electronically by the Clerk of the Court to all interested parties in the case who have requested notice by electronic means.

(ii) The party who filed the motion or application must, no later than two (2) business days thereafter, give notice of the deemed withdrawal to all parties in interest to whom notice of the motion or application was given.

(2) *Effect of Failure to Timely Execute or File Declaration Re: Electronic Filing.* In the event that a participant fails to obtain the signature on or timely file the Declaration Re: Electronic Filing, AK LBR 37A or AK LBR 37B, as applicable, as provided in paragraph (c)(2), the court may after a hearing on shortened time of not less than seven (7) days notice:

[A] Dismiss the petition; and/or

[B] impose on the participant such other sanctions as may be appropriate in the circumstances.

(3) *Other Consequences.* In addition to the foregoing, any misuse of the CM/ECF System, or intentional noncompliance with its requirements, may result in revocation of the participant's login and password privileges and/or the imposition of sanctions as provided in District of Alaska Local Rule 1.3.

Related Provisions:

FRBP 1007	Lists, Schedules, and Statements; Time Limits
FRBP 5005	Filing and Transmittal of Papers
FRBP 7005	Service and Filing of Pleadings and Other Papers
AK LBR 1002-1	Petitions
AK LBR 1005-1	Caption of Petitions
AK LBR 1007-1	Matrix
AK LBR 1007-2	Form of Schedules and Statements
AK LBR 1009-1	Amendment of Schedules and Matrix
AK LBR 2002-1	Notices
AK LBR 3002-1	Claims
AK LBR 5005-2	Number of Copies

AK LBR 7005-1	Electronic Service
AK LBR 9004-1	Form of Pleadings and Other Papers
AK LBR 9013-1	Briefs; Memoranda
AK LBR 9021-1	Orders, Findings, Conclusions, Judgments
AK LBR 9036-1	Request for Notice by Electronic Transmission
AK LBF 37A	Declaration re: Electronic Filing (Individual)
AK LBF 37B	Declaration re: Electronic Filing (Corporation/Partnership/LLC)

COMMENT: Clause (b)(1)[A](I) and subparagraph (b)(1)[C] amended to make ECF registration and filing applicable to all attorneys appearing in the case.
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